

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM**

**EXECUTIVE SUMMARY FOR ACTION ON
COUNTY AIR POLLUTION CONTROL PROGRAM REVISION**

Agenda # ____

Agenda Item Summary: The Department of Environmental Quality (Department) and the Yellowstone County Air Pollution Control Office (YCAPCO) request that the Board approve amendments to the Yellowstone County Air Pollution Control Program (“the Program”).

List of Affected Rules: The proposed action would amend Section IV, “Definitions,” Section XIX, “Effective Date,” and Regulation No. 002, “Open Burning,” and would repeal the local Emergency Episode Plan (EEP).

Affected Parties Summary: The proposed amendments could affect all parties regulated by YCAPCO under the Program.

Scope of Proposed Proceeding: The Department and YCAPCO request that the Board conduct a public hearing to consider approval of the amendments to the Program and to take testimony on submission of the amendments to the U.S. Environmental Protection Agency (EPA) for inclusion in the State Implementation Plan (SIP).

Background: Yellowstone County operates a local air pollution control program approved by the Board. The Program was first approved by the Board’s predecessor, the Montana Board of Health and Environmental Sciences, in 1970. The Board approved recent amendments on September 24, 1999.

The current amendments for Board approval include:

1. Revision of the definition of “public nuisance” in Section IV(24), to conform to the statutory definition of the same phrase in Section 45-8-111, MCA;
2. Updating the program effective date in Section XIX to the date of the Board’s approval of these amendments;
3. Updating a reference in Open Burning Regulation No. 002 to the current citation for the Department of Environmental Quality’s solid waste rules; and
4. Repealing the Emergency Episode Plan.

After publishing notice to the public, the Billings City Council, Broadview Town Council and Laurel City Council, approved the amendments after a public hearing. After publishing notice to the public, the Yellowstone County Air Pollution Control Board and Yellowstone County Board of County Commissioners approved the amendments after a public hearing.

In 1999, when the Board last approved amendments to the program, the U.S. Environmental Protection Agency (EPA) submitted comments suggesting numerous amendments to the Emergency

Episode Plan. At that time, YCAPCO had not proposed amendments to the Emergency Episode Plan, therefore, the EPA comments were outside the scope of the public notices of proposed amendments. YCAPCO is now addressing the EPA comments by proposing to repeal the Emergency Episode Plan. Under Section 75-2-301(5), MCA, jurisdiction over the major sources of air pollution (with the potential to emit greater than 250 tons a year of any regulated pollutant) in Yellowstone County is retained by the state. YCAPCO is proposing to repeal its Emergency Episode Plan because the state's emergency episode plan, which applies in areas not covered by a local emergency episode plan, includes major sources, and the state has significantly more resources to address an air pollution emergency.

The amendments would not make the Program more stringent than comparable state or federal regulations or guidelines.

Hearing Information: The Department and YCAPCO request that the Board conduct a public hearing to take comment on the amendments.

Board Options: The Board may:

1. Approve the amendments;
2. Disapprove the amendments; or
3. Disapprove some of the amendments and approve others.

DEQ Recommendation: The Department recommends that the Board issue an order approving the amendments.

Enclosures:

1. Existing Program, as amended effective September 24, 1999;
2. Proposed amendments; and
3. Draft Board of Environmental Review Memorandum and Order.